IN THE HIGH COURT OF UTARANCHAL AT NAINITAL

Second Appeal No. 25 of 2002

State of Uttaranchal through Divisional
Forest Officer, Ramnagar Forest Division,
Ramnagar, District-Nainital ...Appellant.

VS

Trara Dutt Tiwari S/o Sri Khimanand Tiwari
R/o Ranikhet Road, Ramnagar, District-Nainital

.....Respondent

Sri Nana Prasad learned standing counsel for the State-appellant
Sri Rajendra Dobhal learned counsel for the respondent.

Hon'ble B.S. Verma, J.

Heard Sri Nand Prasad, learned standing counsel for the State-appellant and Sri Rajendra Dobhal, learned counsel for the respondent.

The present Second appeal has been filed by the appellant against the Judgment and decree dated 23.10.2001 passed by t he 1st Appellate Court/Additional district judge, Fast Track Court, Kashipur District- U.S. Nagar in First Appeal No.32/99 as well as against the Judgment and decree dated 2-4-1999, passed by Civil Judge, Junior Division, Kashipur, District- U.S. Nagar in original suit No.331/1991, whereby the permanent temporary injunction suit was decreed and the defendants were directed not to remove the plaintiff/respondents from the property in dispute except in accordance

Aggrieved by the judgment and decree passed by the Civil Judge (Junior Division) Kashipur, the appellant preferred an appeal before the District judge which too was dismissed by the District judge, Feeling aggrieved, the State has come up in the present appeal.

The learned trial court as well as the 1st appellate court came to the conclusion that the plaintiff was found in peaceful possession over the land in dispute whereby the possession was denied by the appellant/defendant. The finding of the fact has been concluded by both the court's below.

The order passed under decree against the appellant/defendant is only not to evict the plaintiff/respondent without due course of law. However it is made clear that the trial court did not restrain the appellant/defendant to evict the petitioner in accordance with law.

No substantial question of law involved in this appeal. The appeal is dismissed in limine. No order as to costs.

Dated:-17-11-2006 **(B.S.Verma,J)**

M.K.